

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

EDEN ROGERS and BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES;

ALEX AZAR, in his official capacity as Secretary  
of the UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;

ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

LYNN JOHNSON, in her official capacity as  
Assistant Secretary of the ADMINISTRATION  
FOR CHILDREN AND FAMILIES;

SCOTT LEKAN, in his official capacity as  
Principal Deputy Assistant Secretary of the  
ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

HENRY MCMASTER, in his official capacity as  
Governor of the STATE OF SOUTH  
CAROLINA; and

MICHAEL LEACH, in his official capacity as  
State Director of the SOUTH CAROLINA  
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-1567-JD

**DECLARATION OF  
PETER T. BARBUR IN SUPPORT  
OF PLAINTIFFS' OPPOSITION TO  
DEFENDANTS HENRY  
McMASTER'S AND MICHAEL  
LEACH'S MOTION TO STAY  
DISCOVERY AND HOLD PENDING  
DISCOVERY MOTIONS IN  
ABEYANCE**

**DECLARATION OF PETER T. BARBUR**

I, PETER T. BARBUR, declare as follows:

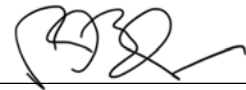
I am a Partner of the law firm Cravath, Swaine & Moore LLP and am admitted *pro hac vice* as counsel to Plaintiffs Eden Rogers and Brandy Welch in the above-captioned action.

I submit this declaration in support of Plaintiffs' Opposition to Defendants Henry McMaster's and Michael Leach's Motion To Stay Discovery and Hold Pending Discovery Motions in Abeyance, dated August 12, 2021.

1. Attached hereto as **Exhibit 1** is a true and correct copy of an email from Katherine Janson to Jonathan Riddle, et al., dated May 13, 2021.
2. Attached hereto as **Exhibit 2** is a true and correct copy of an email from Katherine Janson to Jonathan Riddle, et al., dated June 23, 2021.
3. Attached hereto as **Exhibit 3** is a true and correct copy of an email from Katherine Janson to Miles Coleman, et al., dated July 6, 2021.
4. Attached hereto as **Exhibit 4** is a true and correct copy of an email from Miles Coleman to Katherine Janson, et al., dated July 12, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 12, 2021.

A handwritten signature in black ink, appearing to read 'P. Barbur', is written over a horizontal line.

Peter T. Barbur

# **Exhibit 1**

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Thursday, May 13, 2021 4:17 PM  
**To:** Jonathan M. Riddle <[jriddle@DML-LAW.com](mailto:jriddle@DML-LAW.com)>  
**Cc:** William H. Davidson II <[w davidson@DML-LAW.com](mailto:w davidson@DML-LAW.com)>; Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)) <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; [Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com); 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [sdunn@aclusc.org](mailto:sdunn@aclusc.org); [dmach@aclu.org](mailto:dmach@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>; [jwilliamson@burnetteshutt.law](mailto:jwilliamson@burnetteshutt.law)  
**Subject:** RE: Rogers v. HHS -- deposition scheduling

Thanks, Jonathan. We would like to proceed with these depositions on the following dates and will issue notices shortly.

Jacqueline Lowe – 6/3, 9 a.m.  
Lauren Staudt – 6/4, 9 a.m.  
Diana Tester – 6/10, 1 p.m.  
Dawn Barton – 6/16, 9 a.m.

For Susan Roben, the dates we initially proposed for her no longer work. Would you please let me know her availability the week of 5/24?

Thanks,  
Kate

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Jonathan M. Riddle <[jriddle@DML-LAW.com](mailto:jriddle@DML-LAW.com)>  
**Sent:** Tuesday, May 11, 2021 1:10 PM  
**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Cc:** William H. Davidson II <[w davidson@DML-LAW.com](mailto:w davidson@DML-LAW.com)>; Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)) <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; [Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com); 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [sdunn@aclusc.org](mailto:sdunn@aclusc.org); [dmach@aclu.org](mailto:dmach@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); [mburnette@burnetteshutt.law](mailto:mburnette@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- deposition scheduling

External ([jriddle@dml-law.com](mailto:jriddle@dml-law.com))

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Katherine,  
Ms. Staudt is not available for the 27<sup>th</sup> now but is otherwise available the other dates. Tester is available in the afternoon for the dates you provided. The dates for Ms. Lowe are fine, whatever is best for you of those three. For Barton either the 16<sup>th</sup> or 17<sup>th</sup> should be fine.

**Jonathan M. Riddle**  
**Davidson, Wren & DeMasters P.A.**  
**1611 Devonshire Drive, Second Floor (29204)**  
**Post Office Box 8568**  
**Columbia, South Carolina 29202-8568**  
**(803) 806-8222**  
**FAX: (803) 806-8855**  
[jriddle@dml-law.com](mailto:jriddle@dml-law.com)

---

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Monday, May 10, 2021 12:50 PM  
**To:** Jonathan M. Riddle <[jriddle@DML-LAW.com](mailto:jriddle@DML-LAW.com)>  
**Cc:** William H. Davidson II <[wdavidson@DML-LAW.com](mailto:wdavidson@DML-LAW.com)>; Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)) <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Jay.Thompson@nelsonmullins.com; 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; lcooper@aclu.org; sdunn@aclusc.org; dmach@aclu.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- deposition scheduling

Thanks, Jonathan. We would like to proceed with Lauren Staudt's deposition on 5/27 and will issue a formal notice soon.

For Jacqueline Lowe, would 6/1, 6/2 or 6/3 work?  
For Dawn Barton, would 6/15, 6/16 or 6/17 work?

Please also let us know if Susan Roben and Diana Tester are available on the dates we initially proposed.

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

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**From:** Jonathan M. Riddle <[jriddle@DML-LAW.com](mailto:jriddle@DML-LAW.com)>  
**Sent:** Wednesday, May 5, 2021 3:39 PM  
**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Cc:** William H. Davidson II <[wdavidson@DML-LAW.com](mailto:wdavidson@DML-LAW.com)>; Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)) <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Jay.Thompson@nelsonmullins.com; 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; lcooper@aclu.org; sdunn@aclusc.org; dmach@aclu.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- deposition scheduling

Katherine,  
I am waiting to hear back on availability for Roben, Tester. I know Ms. Lowe will be out of the country from May 17-27<sup>th</sup>. Dawn Barton is out of town from June 7-14<sup>th</sup>. Lauren Staudt is available for the dates proposed.

**Jonathan M. Riddle**  
**Davidson, Wren & DeMasters P.A.**  
**1611 Devonshire Drive, Second Floor (29204)**  
**Post Office Box 8568**  
**Columbia, South Carolina 29202-8568**  
**(803) 806-8222**  
**FAX: (803) 806-8855**  
[jriddle@dml-law.com](mailto:jriddle@dml-law.com)

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**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Wednesday, May 5, 2021 12:53 PM  
**To:** Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>; Jonathan M. Riddle <[jriddle@DML-LAW.com](mailto:jriddle@DML-LAW.com)>  
**Cc:** William H. Davidson II <[w davidson@DML-LAW.com](mailto:w davidson@DML-LAW.com)>; Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)) <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; [Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com); 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [sdunn@aclusc.org](mailto:sdunn@aclusc.org); [dmach@aclu.org](mailto:dmach@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); [mburnette@burnetteshutt.law](mailto:mburnette@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** Rogers v. HHS -- deposition scheduling

Ken, Jonathan,

We wanted to follow up regarding deposition scheduling for the DSS witnesses. Below are the dates we would propose:

Susan Roben – 5/17, 5/18 or 5/19  
Jacqueline Lowe – 5/25, 5/26 or 5/27  
Lauren Staudt – 5/27 (if not overlapping with Lowe), 6/3 or 6/4 (starting at 12 p.m.)  
Dawn Barton – 6/9, 6/10 or 6/11  
Diana Tester – 6/9, 6/10 or 6/11 (if not overlapping with Barton)

Please let us know which of these dates work for you and the witnesses.

Thanks,  
Kate

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

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## **Exhibit 2**

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Wednesday, June 23, 2021 7:06 PM  
**To:** Jonathan Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Cc:** Kenneth Woodington <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Caroline Sartain <[caroline.sartain@nelsonmullins.com](mailto:caroline.sartain@nelsonmullins.com)>; Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [lcooper@aclu.org](mailto:lcooper@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; [christie.newman@usdoj.gov](mailto:christie.newman@usdoj.gov); [james.r.powers@usdoj.gov](mailto:james.r.powers@usdoj.gov); Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS et al. -- attendees for D. Barton and R. Lehman depositions

Jonathan,

I write to follow up regarding the remaining DSS 30(b)(6) depositions, as we have not received a response to my email below. Please provide dates on which Ms. Barton, Ms. Roben and Ms. Tester will be available for their depositions.

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Katherine Janson  
**Sent:** Tuesday, June 15, 2021 9:52 AM  
**To:** 'Jonathan Riddle' <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Cc:** Kenneth Woodington <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Caroline Sartain <[caroline.sartain@nelsonmullins.com](mailto:caroline.sartain@nelsonmullins.com)>; Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [lcooper@aclu.org](mailto:lcooper@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; [christie.newman@usdoj.gov](mailto:christie.newman@usdoj.gov); [james.r.powers@usdoj.gov](mailto:james.r.powers@usdoj.gov); Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS et al. -- attendees for D. Barton and R. Lehman depositions

Jonathan,

DSS first designated its Rule 30(b)(6) representatives and the topics on which they would testify nearly two months ago. And yet never in our communications about deposition scheduling did DSS take the position that Plaintiffs would be entitled to less than the time allotted under the Federal Rules for each deposition because DSS chose to name multiple designees. We are thus very surprised that DSS is taking that position for the first time now.

As an initial matter, Ms. Lowe's deposition did not exceed the seven-hour limit of on-the-record time prescribed by Rule 30(d)(1), and Plaintiffs' direct examination of Ms. Lowe lasted less than five hours. (As you know, time spent for breaks for lunch and other reasons during a deposition does not count toward the seven-hour limit.) So your suggestion that we have already used up all of our time is baseless.

Indeed, as the Committee Notes on Rules -- 2000 Amendment make clear, "[f]or purposes of this [seven-hour] durational limit, the deposition of each person designated under Rule 30(b)(6) should be considered a separate deposition." That is not to say we anticipate the depositions of each of DSS's remaining 30(b)(6) designees lasting the full seven hours -- in fact we would expect those depositions to take materially less time, at least for Plaintiffs' questioning, than Ms. Lowe's deposition. But we are nonetheless entitled to a full day's deposition of each designee, and to the opportunity to question each witness on any or all of the topics on which she has been designated. It is



extremely frustrating that with the discovery deadline approaching in just 15 days, you have derailed our efforts to schedule and complete these depositions.

Please let us know as soon as possible when Ms. Barton, Ms. Roben and Ms. Tester will be available for their depositions.

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Jonathan Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Sent:** Monday, June 14, 2021 5:50 PM  
**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Cc:** Kenneth Woodington <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Caroline Sartain <[caroline.sartain@nelsonmullins.com](mailto:caroline.sartain@nelsonmullins.com)>; Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [lcooper@aclu.org](mailto:lcooper@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; [christie.newman@usdoj.gov](mailto:christie.newman@usdoj.gov); [james.r.powers@usdoj.gov](mailto:james.r.powers@usdoj.gov); Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS et al. -- attendees for D. Barton and R. Lehman depositions

External ([jriddle@dml-law.com](mailto:jriddle@dml-law.com))

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Katherine,

I have discussed the upcoming depositions for DSS designees with our client. First, I was recently informed Dawn Barton will not be available this Wednesday as she also had a last minute issue come up as she is out of town and will not be back by Wednesday. Secondly, after talking with our client and looking over the rules, we are going to object to continuing the 30(b)(6) deposition of DSS under FRCP 30(d)(1). The portion of the deposition for Jackie Lowe exceeded the seven hour limit as allowed by the rule. We hate to be a stickler on this, but our client wants assurances that all our designees will not be subject to day long depositions, especially with similar questions. We are certain we can come to some kind of agreement regarding the additional topics that still have not been addressed.

**Jonathan M. Riddle**  
**Davidson, Wren & DeMasters P.A.**  
**1611 Devonshire Drive, Second Floor (29204)**  
**Post Office Box 8568**  
**Columbia, South Carolina 29202-8568**  
**(803) 806-8222**  
**FAX: (803) 806-8855**  
[jriddle@dml-law.com](mailto:jriddle@dml-law.com)

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**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Monday, June 14, 2021 4:40 PM  
**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [lcooper@aclu.org](mailto:lcooper@aclu.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Mika Madgavkar

<[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; [christie.newman@usdoj.gov](mailto:christie.newman@usdoj.gov); [james.r.powers@usdoj.gov](mailto:james.r.powers@usdoj.gov); Rebecca Schindel  
<[rschindel@cravath.com](mailto:rschindel@cravath.com)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria  
<[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Cc:** William Davidson <[wdavidson@dml-law.com](mailto:wdavidson@dml-law.com)>; Kenneth Woodington <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; Jay Thompson  
<[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Caroline Sartain <[caroline.sartain@nelsonmullins.com](mailto:caroline.sartain@nelsonmullins.com)>;  
Jonathan Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>

**Subject:** Rogers v. HHS et al. -- attendees for D. Barton and R. Lehman depositions

Counsel:

Please let me know who will be attending Dawn Barton's deposition on Wednesday, June 16 and Reid Lehman's deposition on Thursday, June 17 and Friday, June 18 (if needed) so I can ensure you receive an invite from Veritext to access the depositions. The depositions will begin at 9 a.m. each day. We will issue a notice for Mr. Lehman's deposition shortly.

Also, if you anticipate needing to introduce exhibits through Exhibit Share, please let me know and I will notify Veritext of that as well.

Thanks,  
Kate

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

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## **Exhibit 3**

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Tuesday, July 6, 2021 12:08 PM  
**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Cc:** [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Christopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

Thank you, Miles. We look forward to your proposing dates for Ms. Barton's, Ms. Roben's and Ms. Tester's depositions.

Kate Janson  
 Cravath, Swaine & Moore LLP  
 825 Eighth Avenue | New York, NY 10019  
 T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>  
**Sent:** Monday, July 5, 2021 2:58 PM  
**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Cc:** [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Christopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

External (miles.coleman@nelsonmullins.com)

[Report This Email](#) [FAQ](#)

Kate, in response to the question in your June 28 email, we will not on that basis object to these depositions.

Hope everyone had a nice holiday weekend.

Miles

---

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Monday, June 28, 2021 10:40 AM  
**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>  
**Cc:** [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>;

Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

Thanks, Miles. Just to confirm – this means that you will be providing dates for the remaining DSS 30(b)(6) deponents (Ms. Barton, Ms. Roben and Ms. Tester) and will not be standing on the objection Jonathan raised in his June 14 email to continuing the 30(b)(6) deposition of DSS, correct?

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>

**Sent:** Friday, June 25, 2021 1:09 PM

**To:** Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington (<[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>

**Cc:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

State Defendants likewise consent. In addition, in response to Kate's inquiry a day or two ago about the remaining SCDSS witnesses, let me circle up with Ken and Jonathan to discuss and one of us will get back to you. We don't have any dates to propose at the moment, but I wanted to acknowledge we had seen the request and will respond as soon as we are able.

---

**From:** Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>

**Sent:** Friday, June 25, 2021 1:04 PM

**To:** Nekki Shutt <[nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law)>; Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington (<[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>

**Cc:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

◀External Email▶ - From: [James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)

Nekki – the USG consents to the proposed extension, so long as we include language in the joint motion like was present in the prior extension regarding plaintiffs' lack of intent to pursue discovery against us (bottom of page 1 in the attached). Please let me know if you are amenable to that.

Thanks  
Jim

---

**From:** Nekki Shutt <[nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law)>

**Sent:** Thursday, June 24, 2021 11:27 AM

**To:** Newman, Christie (USASC) <[CNewman@usa.doj.gov](mailto:CNewman@usa.doj.gov)>; Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>  
**Cc:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: [EXT]RE: Rogers v. HHS -- ADR Deadline

Counsel,

As we have a number of deadlines coming up and we have some outstanding motions and depositions, Plaintiffs propose extending all upcoming deadlines in the Third Amended Scheduling Order by 60 days. Will the defense consent? Please let me know by noon on Monday, June 28, 2021.

My best,  
Nekki



---

**Nekki Shutt** Partner  
Certified Specialist in Employment & Labor Law  
912 LADY STREET | 2ND FLOOR  
PO BOX 1929 | COLUMBIA, SC 29202  
D: 803-904-7912 | O: 803.850.0912 | F: 803.904.7910  
**BURNETTESHUTT.LAW**



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## **Exhibit 4**



**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>  
**Sent:** Monday, July 12, 2021 1:49 PM  
**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>  
**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

External (miles.coleman@nelsonmullins.com)

[Report This Email](#) [FAQ](#)

Thanks, Kate. We'll check schedules and get back to you.

Do you know who will be the deposing attorney for Prof. Smolin's deposition tomorrow and Wednesday?

Miles

---

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Monday, July 12, 2021 1:22 PM  
**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>  
**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

Miles,

Dr. Brodzinsky is available for his deposition on July 29 beginning at 12:30 p.m. Eastern and continuing on July 30 at 12:30 p.m. Eastern if necessary. Please let us know if those dates work for you.

Thanks,  
Kate

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

---

**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>  
**Sent:** Friday, June 25, 2021 4:55 PM

**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>; Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>  
**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

Unfortunately I won't be available for those dates in the coming week. In light of the 60-day extension to which everyone has agreed, we can look at some later dates.

In regard to Professor Smolin, he's in the Central time zone, but is agreeable to a 1:00 p.m. (Eastern) start time.

---

**From:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Sent:** Wednesday, June 23, 2021 5:50 PM  
**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>  
**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>  
**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

Miles,

Dr. Brodzinsky is available for his deposition on June 29, beginning at 12 p.m. Eastern, or on June 30, beginning at 12:30 p.m. Eastern. If you would prefer for the deposition not to extend beyond regular business hours, we would be willing to begin the deposition on June 29 and continue into June 30 as necessary. Please let us know if those dates work for you.

Would you also please confirm whether 1 p.m. works as a start time for Prof. Smolin's deposition on July 13 and 14?

Thanks,  
 Kate

Kate Janson  
 Cravath, Swaine & Moore LLP  
 825 Eighth Avenue | New York, NY 10019  
 T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

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**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>  
**Sent:** Wednesday, June 23, 2021 4:05 PM  
**To:** Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>; Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>  
**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>; Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray

<[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

I'm afraid so. Based on Kate's email, Dr. Brodzinsky is unavailable in the morning due to time-zone differences, and I cannot do a later start time tomorrow. We can reschedule once we hear back from Dr. Brodzinsky (via Plaintiffs' counsel) of some other available dates.

Miles

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**From:** Newman, Christie (USASC) <[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)>

**Sent:** Wednesday, June 23, 2021 4:00 PM

**To:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>

**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>;

Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org);

[kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>;

Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray

<[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: Rogers v. HHS -- Brodzinsky deposition

Just trying to plan for tomorrow. Is Dr. Brodzinsky's deposition at 12:30 off?

*Christie V. Newman,*  
*Assistant United States Attorney*  
 1441 Main St., Suite 500  
 Columbia, SC 29201  
[Christie.Newman@usdoj.gov](mailto:Christie.Newman@usdoj.gov)  
 803-730-7180 (cell)  
 803-929-3021 (office)

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**From:** Miles Coleman <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>

**Sent:** Wednesday, June 23, 2021 9:45 AM

**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>

**Cc:** Jay Thompson <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; [bcook@scag.gov](mailto:bcook@scag.gov); Kenneth P Woodington ([kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)) <[kwoodington@dml-law.com](mailto:kwoodington@dml-law.com)>; [wdauidson@dml-law.com](mailto:wdauidson@dml-law.com); Jonathan M. Riddle <[jriddle@dml-law.com](mailto:jriddle@dml-law.com)>;

Powers, James R. (CIV) <[James.R.Powers@usdoj.gov](mailto:James.R.Powers@usdoj.gov)>; Newman, Christie (USASC) <[CNewman@usa.doj.gov](mailto:CNewman@usa.doj.gov)>;

[lcooper@aclu.org](mailto:lcooper@aclu.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [dmach@aclu.org](mailto:dmach@aclu.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law);

Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar

<[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** Re: Rogers v. HHS -- Brodzinsky deposition

Kate, I will be unable to start the deposition that late and have it run into the latter part of the day tomorrow. We are willing, however, to do our best to accommodate Dr. Brodzinsky's schedule and look for a later date for his deposition, which may mean a date after the current date for the close of discovery.

As to the videotaping of his deposition on whatever date is chosen, you are welcome to arrange for the deposition to be videotaped, but we do not plan to request and provide for a videotaped deposition.

Perhaps the best next step is for you to confer with Dr. Brodzinsky and propose some alternative dates and times when he would be available, taking into account the relevant time zone.

Miles

Sent from my iPhone

On Jun 22, 2021, at 5:52 PM, Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)> wrote:

◀External Email▶ - From: [prvs=4807590afa=kjanson@cravath.com](mailto:prvs=4807590afa=kjanson@cravath.com)

Miles,

It has come to our attention that Dr. Brodzinsky will be attending his deposition from California. Therefore, we propose beginning his deposition at 12:30 pm Eastern time on Thursday, June 24. Please let us know if that start time works for you.

Additionally, we wanted to provide our list of attendees so you can pass the information to Veritext:

- David Brodzinsky ([dbrodzinsk@comcast.net](mailto:dbrodzinsk@comcast.net))
- Leslie Cooper ([lcooper@aclu.org](mailto:lcooper@aclu.org))
- Karen Loewy ([kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org))
- Cris Ray ([cray@cravath.com](mailto:cray@cravath.com))

Finally, we request that this deposition be videotaped. Could you please confirm that you have arranged for a videographer?

Thanks,  
Kate

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

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